

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9397 of 1999

with

CIVIL APPLICATION No 2842 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

KB DHAMA

Versus

SA GODAKIYA OR SUCCESSOR

Appearance:

MR HD VASAVADA for Petitioner

MR BAROT for MR HS MUNSHAW for Respondent Nos. 1,3

Ms MANISHA LAVKUMAR, AGP for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/04/2001

ORAL JUDGEMENT

When Civil Application No. 2842 of 2001 has come up for hearing, it was suggested to the learned counsel for the parties that in view of the nature of the controversy involved in the main petition, instead of hearing the Civil Application for vacating the interim relief, the main petition itself should be taken up for

hearing. Accordingly, with the consent of the learned counsel for the parties, the main petition is taken up for final disposal today.

2. What is challenged in the petition is the order of reversion dated 11.11.1999 passed by respondent No.1-District Development Officer, Junagadh reverting the petitioner from the post of Extension Officer to the lower post of Senior Clerk on the ground that the petitioner had not produced the requisite proof to show that the petitioner belonged to a Scheduled Tribe. The promotion was admittedly given to the petitioner on the roster point reserved for the Scheduled Tribe candidates. The petitioner had relied on the vigat dharshak card (i.e. information card) prepared by the Deputy Director of Tribal Development, Gujarat State on 19.11.1994.

3. The main challenge raised in the petition is that the petitioner was not given a reasonable opportunity of being heard before reverting the petitioner from the higher post.

Mr Vasavada for the petitioner further submits that the petitioner was promoted to the higher post on 7.11.1989 on the basis that he belongs to a Scheduled Tribe but without prejudice to his contention that the petitioner belongs to a Scheduled Tribe, even if the petitioner is treated as a general category candidate, the petitioner would have been due for promotion to the higher post and, therefore also, the order of reversion is not justified.

4. In view of the nature of the controversy, it appears to the Court that the impugned order of reversion deserves to be quashed and set aside only on the short ground that the petitioner was not given a reasonable opportunity of being heard.

5. Without expressing any opinion on the merits of the controversy between the parties, this Court quashes the order dated 11.11.1999 (Annexure"A" to the petition) reverting the petitioner from the post of Extension Officer (Panchayat) to the lower post of Senior Clerk without prejudice to the power of the respondents to take appropriate decision after giving the petitioner an opportunity of being heard. The petitioner shall also extend cooperation to the authority in taking such decision and also submit his reply alongwith the documents, if any, in support of his claim within one month from the date of receipt of the notice which shall

be issued by the District Development for deciding the matter afresh.

6. The petition is accordingly disposed in terms of the aforesaid direction. Rule is made absolute to the aforesaid extent with no order as to costs.

7. Since the petition is disposed of, Civil Application No. 2842 of 2001 does not survive and is disposed of accordingly.

(M.S. Shah, J.)
sundar/-